

GAHC010258852013



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3416/2013

JAGADISH DOLEY and ANR.
S/O LATE ANJAN DOLEY, R/O VILL. MATMORA, P.O. KHARKOTAMUKH,
DHAKUALUKHANA, DIST. LAKHIMPUR, ASSAM.

2: ABHIJIT SONOWAL

S/O SRI GHANAKANTA SONOWAL
VILL.MAINA PARA
P.O. KADAM
DIST. LAKHIMPUR
ASSAM
PIN 78703

VERSUS

THE STATE OF ASSAM AND 11 ORS
REPRESENTED BY THE CHIEF SECY. GOVT. OF ASSAM, DISPUR,
GUWAHATI-6

2:THE STATE OF ASSAM

REPRESENTED BY THE COMMISSIONER and SECY.
REVENUE AND DISASTER MANAGEMENT AND CO-OPERATION DEPTT.
GOVT. OF ASSAM
DISPUR
GUWAHATI-6

3:THE PRINCIPAL SECY.

REVENUE AND DIGESTER MANAGEMENT
GOVT. OF ASSAM
DISPUR
GUWAHATI-6

4:THE NORTH ASSAM COMMISSIONER

TEZPUR
DIST. SONITPUR

5:ASSAM THE DEPUTY COMMISSIONER

DIST LAKHIMPUR
ASSAM.

6:M/S NARAH TEA PLANTATION PVT. LTD.
REPRESENTED BY SMTI RANIEE NARAH
NARAYAN BHAWAN
JAPORIGOG
GUWAHATI
ASSAM
PIN 781005

7:UPPER GANGES SUGER and INDUSTRIES LTD.

REPRESENTED BY SHRI NOPANI NANDINI
14 ROWLAND ROAD
KOLKATA
PIN 700020
WEST BENGAL
INDIA.

8:M/S BENGAL TEA and FABRICS LTD.

REPRESENTED BY SHRI ADARSH KANORIA
MANAGING DIRECTOR
23 BALLYGUNJ PARK
KOLKATA
PIN 700019
WEST BENGAL INDIA.

9:M/S BISHNATH TEA COMPANY LTD.

REPRESENTED BY MANAGING DIRECTOR 4
MANGOLANEK
KOLKATA
PIN 700001
WEST BENGAL
INDIA.

10:PUNYA MILI

R/O BOGINODI KHALIHAMARI

P.O. BOGINODI
P.S. BOGINADI
PIN 78703

11:KAILASH BRAHMA

VILL. TARIONI BERMAHPUR
P.O. TARIONI BERBANGHA
P.S. BOGINODI
DIST. LAKHIMPUR
ASSAM
PIN 787032

12:BUDHINA BHATTACHARYA

VILL. SIAJLI
MAJGAON
P.S. BOGINODI
DIST. LAKHIMPUR
ASSAM
PIN 78703

Advocate for the Petitioner : MS.M BORAH

Advocate for the Respondent : MRA HAWARI

**BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM**

ORDER

Date : 21/09/2023

Heard Ms. M. Borah, learned counsel appearing for the writ petitioners. Also heard Mr. B.J. Talukdar, learned senior counsel assisted by Ms. N. Bordoloi, learned Standing Counsel, Revenue and DM Department, Assam, appearing for the respondent nos. 1 to 5. Mr. G. N. Sahewalla, learned senior counsel assisted by Ms. T.J. Sahewalla, learned counsel is present on behalf of the respondent no. 8. Mr. M.J. Quadir, learned counsel has appeared on behalf of the respondent no. 5 and Mr. R. Hussain, learned counsel is present on behalf of the respondent no. 7. Ms. K. Yadav, learned counsel is present on behalf of the respondent no. 12. The remaining respondents are absent.

The 2 (two) writ petitioners herein claim to be landless persons affected by river erosion. Alleging that the private respondents herein have been allowed to illegally encroach upon "*sarkari land*" with connivance with the higher authorities of the State, as a result of which, the petitioners have been deprived of settlement of land, the instant writ petition has been filed *inter-alia* praying for a Writ of Mandamus directing the respondents to rehabilitate the petitioners by making allotment of land in their favour after evicting the private respondents.

Mr. Talukdar, learned senior counsel appearing for the State of Assam submits that the Government of Assam has produced a copy of the notification issued on 06/01/2021 inviting applications for allotment of land in respect of erosion affected persons and, therefore, if the petitioners make an application to that effect, their request will be considered in accordance with law.

Mr. Sahewalla, learned senior counsel appearing for the respondent no. 8, leading the argument on behalf of the private respondents submits that the allegations made in the writ petition are completely untrue and, therefore, the relief as prayed for, cannot be granted to the petitioners. It is also the submission of Mr. Sahewalla that the petitioners do not have any right that can be enforced in this writ petition.

Be that as it may, since the petitioners are merely seeking allotment of land on account of the fact that they are river erosion affected persons and considering the fact that the State has come up with a scheme to rehabilitated river erosion affected persons, the other issues raised in the writ petition need not detain this Court.

In view of the submission made by Mr. Talukdar, this writ petition stands disposed of by granting leave to the petitioners to submit proper application for allotment of land.

If such application is submitted by the petitioners within three months from today, the same be considered by the authorities as per the "Rehabilitation Policy for Erosion Affected Families of Assam, 2020" as notified by the Government of Assam on 06/01/2021 and a decision be taken in

respect thereof, as expeditiously as possible, preferably within six months from the date of receipt of the application along with a certified copy of this order.

In so far as the private respondents are concerned, it would be open for the State to take appropriate action in the matter, if they are of the view that there has been illegal encroachment of “*sarkari land*” and this Court refrains from making any further observation on that behalf, in the present order.

With the above observation, this writ petition stands disposed of.

JUDGE

sukhamay

Comparing Assistant